

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re	:	Chapter 11 Case No.
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LEHMAN BROTHERS HOLDINGS, INC., et al.,	:	08-13555 (JMP)
	:	
Debtors.	:	(Jointly Administered)
	:	
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DECLARATION OF THOMAS J. MOLONEY

I, Thomas J. Moloney, do hereby declare as follows:

1. I am a member of the Bar of the State of New York and of this Court. I am also a member of Cleary Gottlieb Steen & Hamilton LLP ("Cleary Gottlieb"), counsel to Goldman Sachs Bank USA ("GSB") and Goldman Sachs International ("GSI" and together with GSB, "Goldman Sachs"), each a creditor in the above captioned cases.

2. I submit this declaration on personal knowledge in support of the Application of Goldman Sachs Bank USA and Goldman Sachs International for Entry of an Order Pursuant to 11 U.S.C. §§ 503(b)(3)(D) and 504(b)(4) for Allowance and Reimbursement of Reasonable Professional Fees in Making a Substantial Contribution in these Cases (the "Application").¹

3. By and through the Application, Goldman Sachs is seeking allowance and payment of a Chapter 11 administrative claim in the amount of \$3,292,868.03 (the "Administrative Claim") against the estate of LBSF for making a substantial contribution to the Debtors' cases through its participation in the Chapter 11 plan process and derivative claims resolution process. The Administrative Claim is limited to Goldman Sachs' request for

¹ Capitalized terms used but not defined herein shall have the meaning given to them in the Application.

reimbursement of certain of the legal fees it paid Cleary Gottlieb in connection with the foregoing matters.²

4. I have personally rendered certain of the legal services performed by Cleary Gottlieb for Goldman Sachs in connection with the chapter 11 plan process and derivative framework and am familiar with the services rendered by all of the lawyers and other professionals at Cleary Gottlieb on behalf of Goldman Sachs in connection with the chapter 11 plan process and derivative framework.

5. Goldman Sachs is seeking reimbursement for \$3,292,868.03 in connection with Cleary Gottlieb's bill for services rendered in connection with the chapter 11 plan process and derivative claims framework in the above-captioned chapter 11 cases.³ Cleary Gottlieb attorneys, law clerks and paraprofessionals expended a total of 5,240.90 hours on behalf of Goldman Sachs in these cases for which reimbursement is requested.

6. As described in the Application, Cleary Gottlieb, on behalf of Goldman Sachs, succeeded in helping to identify and to find creative consensual resolutions to issues that could otherwise have resulted in years of litigation and a tremendous loss of value to all creditor constituencies. Specifically:

- Goldman Sachs and Cleary Gottlieb prepared and shared with the Debtors, the Creditors' Committee and other relevant creditor constituencies, white papers as to the merits of complex factual and legal issues that would determine the appropriate allocation of value among the Debtors estates, including on substantive

² Of the requested amount, \$3,285,908.24 represents amounts for fees invoiced to and already paid by Goldman Sachs. The remaining \$6,959.79 represents amounts for fees invoiced but not yet paid.

³ The Application does not seek reimbursement for all fees or expenses incurred by Goldman Sachs or Cleary Gottlieb in connection with the Debtors' Chapter 11 cases. The fees for which Goldman Sachs seeks reimbursement in this Application are limited to services performed that resulted in a substantial contribution in these cases. For example, fees and expenses incurred for the sole benefit of Goldman Sachs (e.g., filing of proofs of claim) are not included in the Application.

consolidation, recharacterization, RACERS, and allocation of administrative expenses between LBSF and LBHI. Goldman Sachs and Cleary Gottlieb also met with these constituencies to discuss these issues. In carrying out this function, Goldman Sachs and Cleary Gottlieb served as a voice for significant creditor interests at the Debtors' operating companies, which did not have their own independent Debtor management teams or official creditors' committees. These documents and meetings were key building blocks in reaching the compromise that allowed for a consensual plan in this case.

- In a similar vein, Goldman Sachs and Cleary Gottlieb took a lead role in drafting the Non-Con Plan and related disclosure statement, which required soliciting input from and building consensus with the other proponents of the Non-Con Plan, who represented a range of diverse views and interests in the Debtors' cases. The formation of a group that included the most significant non-holding company creditors was also a critical building block for the successful plan negotiation that ensued.
- Goldman Sachs and Cleary Gottlieb negotiated and helped formulate the discovery protocol governing Chapter 11 plan discovery, resulting in a more streamlined and efficient discovery process to be followed if there were plan related litigation.
- Goldman Sachs and Cleary Gottlieb played a leading role in the global plan negotiations with the Debtors, members of the Ad Hoc Group, foreign affiliates, and other important parties in interest in June 2011.
- Goldman Sachs and Cleary Gottlieb played a leading role in the negotiation of the form of the plan support agreements, the Plan (including numerous exhibits and

plan supplement documents), the related disclosure statement and related documentation, including the sequencing stipulation (under which the Ad Hoc Group and certain Non-Con Plan proponents agreed to hold in abeyance and not prosecute their respective competing Chapter 11 plans).

- Goldman Sachs and Cleary Gottlieb worked closely with other major derivative counterparties, the Debtors and their respective counsel to construct the Derivative Framework and to negotiate the form of the related derivative termination agreements.
- Throughout the plan process and derivative framework discussions, Goldman Sachs and Cleary Gottlieb helped to organize and coordinate with similarly situated creditors.

7. Cleary Gottlieb billed Goldman Sachs for its work in these Chapter 11 cases on the basis of established fee arrangements between Cleary Gottlieb and Goldman Sachs. These rates are no more than Cleary Gottlieb's normal billing rates generally applicable in non-bankruptcy matters.

8. No time spent or expenses incurred by Cleary Gottlieb in connection with the preparation of the Application and this declaration have been included in the Cleary Gottlieb fee amounts for which reimbursement is sought.

9. No previous request for the relief sought in the Application has been made in these cases by Goldman Sachs or Cleary Gottlieb.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed this 5th day of July 2012.

/s/ Thomas J. Moloney
Thomas J. Moloney